FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JUL 31 2015

MATTHEW J. DYKMAN
CLERK

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of New Mexico

United States of America
v.
Richmond Sam

Defendant(s)

Case No. 15mj2687

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 30, 2015 in the county of Sandoval in the District of New Mexico, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. Sec. 1111	Murder
18 U.S.C. Sec. 922(g)	Felon in possession of a firearm
18 U.S.C. Sec. 1153	The above taking place in Indian Country by and Indian against the person or property of another Indian

This criminal complaint is based on these facts:

See attached affidavit

☑ Continued on the attached sheet.

Complainant's signature

Ross Zuercher, Special Agent - FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 7/31/15

Judge's signature

City and state: Albuquerque, New Mexico

WILLIAM P. LYNCH
U.S. MAGISTRATE JUDGE

Printed name and title

AFFIDAVIT

Your Affiant, Ross Zuercher, having been duly sworn, does hereby depose and say:

Introduction

1. I have been a Special Agent (SA) of the Federal Bureau of Investigation (FBI), United States Department of Justice, since August 2012. As such, I am a "federal law enforcement officer" within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C), that is, a government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to request arrest warrants. I am currently assigned to the FBI's Albuquerque Violent Crime Program, as such, I am authorized to investigate crimes occurring on Native American lands. The information set forth in this affidavit was derived from my own investigation and/or communicated to me by other sworn law enforcement officers of the FBI and the Navajo Tribal Police Department. Because this affidavit is submitted for the limited purpose of securing an arrest warrant, your Affiant has not included each and every fact known to me concerning this investigation. Your Affiant has set forth only those facts that your Affiant believes are necessary to establish that probable cause to support a criminal complaint against Ruben Nieto in violation of Title 18 U.S.C. §§ 1111, 922(g) and 1153.

Relevant Statutes

2. This investigation concerns alleged violations of certain activities relating to crimes occurring in Indian Country; Title 18 U.S.C. §§ 1111, 922(g) and 1153.

    a. 18 U.S.C. § 1111 makes it a federal crime for any person who unlawfully kills another human being with malice aforethought.

    b. 18 U.S.C. § 922(g) makes it a federal crime for any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year, to possess in or affecting commerce, any firearm or ammunition.

    c. 18 U.S.C. § 1153(a) makes it a federal crime for any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely murder.

Details of the Investigation

3. On July 30, 2015, the Albuquerque Division of the FBI was notified of the shooting death of John Doe near Counselor, New Mexico. The shooting was conducted by Richmond Sam (SAM) on the property he occupied.

4. According to JH, the brother of John Doe, the two men plus their other brothers, left their residence some time during the afternoon of July 29, 2015. The four men bought a 12 pack of Old English malt liquor. After consuming the liquor, JH told his brothers that SAM owed JH approximately $45 that he leant SAM for gas money several months ago. The brothers decided to collect the debt.

5. Around midnight of July 30, 2015, the four men arrived at SAM's residence shouting that he owed JH money, and to pay his debts. The men tried to call SAM out of the residence to confront him. After the unsuccessful attempts to coax SAM from his residence, John Doe and a brother began to smash the car windows of the two automobiles parked outside of SAM's residence. The windows were smashed with iron fence posts obtained from the property.

6. JH stated that he saw a man, although he could not make out his face begin to fire live ammunition at the four brothers. JH stated that he heard between three and five rounds being fired while they were outside of their vehicle. After the shots were fired, the four brothers got into their vehicle and fled the property. John Doe was driving the vehicle and JH was sitting next to him on the passenger side. As the vehicle sped away down SAM's driveway, several more shots were fired at the vehicle. One round broke the back window of the vehicle. One of the rounds fired entered the back of John Doe's neck, and exited the oral cavity. JH stated that he saw his brother, John Doe, slump forward with blood coming out of his mouth. John Doe had made painful moaning noises as he slumped forward. JH used his left hand to steady the steering wheel of the vehicle as it headed down a steep grade in the driveway. The vehicle then crashed into a small ditch. JH got out of the vehicle, grabbed John Doe from the driver's seat, and placed him into the rear seat of the vehicle. JH could not recall where the other two brothers went.

7. JH drove the vehicle to John Doe's mother's house, located approximately four miles from SAM's residence. John Doe's mother, EB, was notified of the incident. John Doe died sometime between being struck with the round of ammunition and the drive to the EB's residence.

8. Emergency response was contacted, and a search for SAM commenced. At approximately 5 a.m., SAM surrendered to the San Juan County Sheriff's Office and was detained. The Sheriff's Office transferred custody of SAM to the Navajo Tribal Police Department.

9. The FBI arrived at SAM's residence and conducted a search of the areas outside the area of the residence. Much of residence was open field with no discernible fencing or property line. Several items of interest were found, including rifle casings, matched in caliber, that grouped in two separate areas of the property as well as an AK-47 rifle with a drum magazine and a chambered live round of ammunition. The rifle was found wrapped in a blanket and placed inside a bush.

10. FBI interviewed SAM who said that on the night of July 29, 2015 and while he was watching a movie in his residence, SAM heard a loud commotion coming from outside his residence. The sound was that somebody was trying to break into his home by pounding on his entrance door. SAM held the door shut with his body weight. While holding the door closed, SAM said that he heard a loud bang that sounded like a gunshot. Eventually the intruders lost interest into gaining access to the residence. SAM said that he heard a vehicle shift into drive, and believed it to be the best chance to escape from his residence. SAM said that he ran to his cousin's house occupied by Mr. Henry. SAM said he had a conversation with Mr. Henry regarding the intruders and asked for a weapon. SAM said that Mr. Henry gave him an AK-47 rifle. SAM moved around the west side of the house towards the north and positioned himself next to a woodpile. SAM then said that he was fired upon twice by what he believed to be a rifle. SAM said that he thought it was a rifle because he could see the light reflecting off what looked to be a long barrel. SAM said he returned fire and shot approximately five times. SAM saw approximately four to six men scatter. Although he could not make out their faces, SAM saw the men enter a white or green vehicle. After the men entered the vehicle it then started to drive away from SAM and towards the end of his driveway. SAM moved to a position closer to the departing vehicle behind a metal structure and shot an additional five rounds at the departing vehicle. Second position was approximately 50 feet closer to the vehicle. SAM was unsure if he hit anything or anyone, but did say that he heard what sounded like a vehicle crash after he opened fire the second time.

11. SAM then took the rifle to a location northwest of his position, covered it with a blanket, and placed it inside a bush. SAM then fled his residence until his eventual detention by the San Juan County Sheriff's Office.

Interstate Nexus

12. According to 18 U.S.C. § 922(g), interstate or foreign commerce must be affected. The rifle given to SAM by his cousin was an AK-47 that was manufactured in China. Thus, your Affiant believes that the interstate nexus requirement is satisfied.

Federal Jurisdiction

13. SAM is currently enrolled a tribal member of the Navajo Nation.

14. John Doe is also enrolled as a tribal member of the Navajo Nation.

15. The shooting and eventual death of John Doe entirely took place within the exterior boundaries of the Navajo Nation.

Prior Conviction

16. SAM pled guilty to the New Mexico state charge of aggravated assault upon a peace officer. As a result of the charge, SAM was sentenced to jail time as well as probation. SAM was still serving his probation when the incident described above occurred.

Conclusion

17. Based on all of the above information, your Affiant submits there is probable cause to believe that RICHMOND SAME, violated 18 U.S.C. §§ 1111, 922(g) and 1153. Your Affiant requests an arrest warrant based upon the criminal complaint in this matter.

18. Assistant United States Attorney Paul Spiers has authorized federal prosecution in this matter.

19. I swear that this information is true and correct to the best of my knowledge.

Ross Zuercher, Special Agent - FBI

SUBSCRIBED and SWORN to before me this 31st day of July, 2015.

United States Magistrate Judge